

Bureau of Land Management - El Centro Field Office
Vendor Permit SPECIAL STIPULATIONS
Appendix A
September 1, 2004

FY05

Vendor behavior is subject to the following special stipulations, conditions, regulations, and supplemental rules. Plain English has been used for clarity. Specific regulations {CFR} Supplemental Rules {Supp. Rule} citations are include for those who wish to see the exact wording. The conditions are checked on the back of the Special Recreation Permit and Application Form (Form 8370-1). General rules of conduct in 43 CFR Part 8365 also apply to vendors.

The term "Vendor Permit" refers to Special Recreation Permits issued for vending.

General

- 1) A vendor permit (Special Recreation Permit for vending) must be obtained for all commercial use of public lands. **43 CFR 2932.11(a)(1); 43 CFR 2932.57(a)(1); 43 CFR 2932.57(b)(1) & (2)**
- 2) The permittee must follow all stipulations included in the vendor permit (Special Recreation Permit for vendors). Specifically those included in this appendix. **43 CFR 2932.41; 43 CFR 2932.57(a)(2); 43 CFR 2932.57(b)(1) & (2)**
- 3) BLM may issue a citation, suspend, or cancel a vendor permit for violating vendor stipulations. **43 CFR 2932.56(b)**
- 4) BLM may amend, suspend, or cancel a vendor permit to protect public health & safety or natural resources. **43 CFR 2932.57(a)**
- 5) Vendors shall not obstruct, impede, or harass visitors or others with physical contact while operating under a vendor permit. **43 CFR 2932.57(a)(6)**
- 6) Vendors shall not refuse to leave or disperse when directed by a law enforcement officer. **43 CFR 2932.57(a)(7)**
- 7) State & County health, building & sanitation codes apply to structures (both permanent and mobile) on public lands. **Supp. Rule, Federal Register 09/13/1991, Vol. 56, No. 178, pp. 46641-2**
- 8) Equipment left unattended more than 72 hours will be considered abandoned, and may become the property of the U.S. Government. **43 CFR 8365.1-2 and 2-3(c)**
- 9) The permittee shall comply with all Federal, State, and local laws; ordinances; regulations; orders; postings; or written requirements applicable to the area or operations covered by the Special Recreation Permit. The permittee shall ensure that all persons operating under the authorization have obtained all required Federal, State, and local licenses or registrations. The permittee shall make every reasonable effort to ensure compliance with these requirements by all agents of the permittee and by all clients, customers, participants, or spectators under the permittee's supervision. (BLMM H-2030-1, p. 34)
- 10) A Special Recreation Permit authorizes special uses of the public lands and related waters and, should circumstances warrant, the permit may be modified by the BLM at any time, including modification of the amount of use. The authorized officer may suspend or terminate a Special Recreation Permit if necessary to protect public resources, health, safety, the environment, or because of noncompliance with permit stipulations. Actions by the BLM to suspend or terminate a Special Recreation Permit are appealable. (BLMM H-2030-1, p. 35)
- 11) No Value shall be assigned to or claimed for the permit, or for the occupancy or use of Federal

lands or related waters granted thereupon. The permit privileges are not to be considered property on which the permittee shall be entitled to earn or receive any return, income, price, or compensation. The use of a permit as collateral is not recognized by the BLM. (BLMM H-2030-1, p. 35)

- 12) Unless expressly stated, the SRP does not create an exclusive right of use of an area by the permittee. The permittee shall not interfere with other valid uses of the Federal land by other users. The United States reserves the right to use any part of the area for any purpose. (BLMM H-2030-1, p. 35)
- 13) The permittee or permittee's representative may not assign, contract, or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily. However, contracting of equipment or services may be approved by the authorized officer in advance, if necessary to supplement a permittee's operations. Such contracting should not constitute more than half the required equipment or services for any one trip and the permittee must retain operational control of the permitted activity. If equipment or services are contracted, the permittee shall continue to be responsible for compliance with all stipulations and conditions of the permit. (BLMM H-2030-1, p. 35)
- 14) All advertising and representations made to the public and the authorized officer must be accurate. Although the addressees and telephone numbers of the BLM may be included in advertising materials, official agency symbols may not be used. The permittee shall not use advertising that attempts to portray or represent the activities as being conducted by BLM. The permittee may not portray or represent the permit fee as a special Federal user's tax. The permittee must furnish the authorized officer with any current brochure and price list if requested by the authorized officer. (BLMM H-2030-1, p. 35)
- 15) The permittee must assume responsibility for inspecting the permitted area for any existing or new hazardous conditions, e.g., trail and route conditions, land slides, avalanches, rocks, changing water or weather conditions, falling limbs or trees, submerged objects, hazardous wildlife, or other hazards the present risks for which the permittee assumes responsibility. (BLMM H-2030-1, p. 35)
- 16) In the event of default on any mortgage or other indebtedness, such as bankruptcy, creditors shall not succeed to the operating rights or privileges of the permittee's SRP. (BLMM H-2030-1, p. 35)
- 17) The permittee cannot, unless specifically authorized, erect construct, or place any building, structure, or other fixture on public lands. Upon leaving, the lands must be restored as nearly as possible to pre-existing conditions. (BLMM H-2030-1, p. 36)
- 18) The permittee must present or display a copy of the SRP to an authorized officer's representative, or law enforcement personnel upon request. If required, the permittee must display a copy of the permit or other identification tag on equipment used during the authorized use. (BLMM H-2030-1, p. 36)
- 19) The authorized officer, or other duly authorized representative of the BLM may examine any of the records or other documents related to the permit, the permittee or the permittee's operator, employee, or agent for up to 3 years after expiration of the permit. (BLMM H-2030-1, p. 36)
- 20) The permittee shall notify the authorized officer of any accident that occurs while involved in activities authorized by this permit which results in: death, personal injury requiring hospitalizations or emergency evacuation, or in property damage greater than \$2,500 (lesser amounts if established by State Law). Reports should be submitted within 48 hours of death or injury, or 10 days in accidents involving property damage. (BLMM H-2030-1, p. 36)

Applications, Permits, Updates, & Changes

- 21) A separate application package is needed for each unit conducting business on the same day.
- 22) All applications must provide a list of all goods and/or services being provided. The vendor must own the merchandise or a written agreement for consignment must be included with the application.
- 23) The permittees (vendors) must have the approved Special Recreation Permit and the approved Vendor Update/Change Form in their possession prior to starting operations on public lands.
- 24) Vendor (Special Recreation) permits are approved for the season (October 1, 2004 to May 31, 2005) but they are valid only for the days authorized on approved Vendor Update/Change Forms. The authorized days are defined as vendor days.
- 25) Approved BLM Vendor Update/Change Forms must have an **original** BLM date stamp in the "Date Sent" box. Duplication/photocopying of an approved Vendor Update/Change Form is not permitted and will be considered **invalid**.
- 26) Only vehicles/trailers listed on the Vendor Vehicle License Number Sheet or as an approved change on an approved Vendor Update/Change Form are allowed on the site as part of the approved permit.
- 27) Request for specific dates and all changes must be received by BLM at least 14 days in advance on the Vendor Update/Change Form.
- 28) Approved Special Recreation Permits for vendors and/or Vendor Update/Change Forms that have been exchanged with other vendors or vending units are not permitted and may automatically terminate the Special Recreation Permit for vending for the remainder of the season.

Fees

- 29) Fees are required for any day, or part of a day, that a vendor is conducting commerce/business (e.g., setting up, taking down, advertising, selling, providing a service).
- 30) Vendors are required to pay the vendor (Special Recreation Permit) fees in advance. **43 CFR 2932.57(a)(1) & (b)**. The El Centro Field Office requires the fees to be received 14 days in advance of the days being paid for.
- 31) All fees must be paid in United States currency.
- 32) Vendors arriving earlier than their paid vending dates must have in their possession the Weekly Recreation Use Pass (must be valid for the dates of use) **or** the Season Recreation Use Pass (Oct. 1st-Sept. 30th) for **each** primary vehicle.
- 33) The \$80.00 minimum application fee is non-refundable. **43 CFR 2932.33(c)**
- 34) The \$160.00 assigned site fee for the Gecko Road Vendor Pad sites is non-refundable. **43 CFR 2932.33(c)**
- 35) Fees for days cancelled and/or suspended for noncompliance with Federal, State, or county laws, regulations, stipulations, or ordinances will not be refunded.

Insurance

- 36) The vendor/business, at all times while on public lands, must be covered by a general liability insurance policy with at least the minimum coverage specified in Application Requirement C on the back of the Special Recreation Application and Permit Form. NOTE: Vehicle insurance is not acceptable as a substitute for general business liability insurance.
- 37) The business name used on the original application **must be** the same name used for the liability insurance. **43 CFR 2932.43(b)**

Non-BLM Permits

- 38) Imperial County and State of California permits and licenses **must be posted** and placed in a visible location at each vending site.

Vending Operations at Vendor Areas

- 39) Vendors must post a copy of the vendor permit where customers and BLM employees can read and must show a copy when requested by a customer or BLM employee. **43 CFR 2932.57(a)(4); 43 CFR 2932.57(a)(5)**
- 40) The permittee will be responsible for proper removal and/or disposal of all trash and litter generated at the vending site.
- 41) Hazardous materials must be disposed of at an appropriate site according to California State Laws and Regulations.
- 42) Concessions producing trash (e.g., food vendors) must provide a 30-gallon trash container with an affixed lid.
- 43) All signs and advertisements not affixed to vehicles will be mounted to a wooden lath or similar breakaway material. Vegetation will not be used. No metal signposts or wire will be used creating a potential safety hazard to area users. All sign materials must be removed when leaving the area after vending has been completed.
- 44) Stationary night operations will not be conducted without suitable illumination.
- 45) All vendor areas are available on a first come-first serve basis. Except a lottery system will be used for the Gecko Road Vendor Pad sites if the number of applications exceeds the available sites and/or dates.
- 46) All vendors must have their vehicles and/or stationary units properly marked and displayed with the business name.
- 47) Public address systems and/or amplified music are authorized between the hours of **8am-8pm**.
- 48) Reserving or saving a vending spot **prior** to the approved vendor dates will not be permitted and will be considered a violation of the Special Recreation Permit.
- 49) All sales must be made by the permit holder or by a legal employee of the permit holder.
- 50) The permittee shall maintain vehicles and service equipment and the vending site in a neat, orderly, sanitary, and safe condition.
- 51) On approved vendor days, vendors shall conduct business at the approved locations. The authorized officer may make case by case exceptions (e.g., temporary repairs, break down of refrigeration equipment, restocking supplies).

- 52) On non-vendor days, there will be no housing or storage of equipment on public lands. All vending equipment and related material must be removed from public lands. An exception will be made only for equipment necessary for camping or recreating (e.g. recreation vehicle, dune buggy) when the individual has a valid Imperial Sand Dunes Recreation Use Permit.
- 53) Public access to dumpsters will not be obstructed. Vending operations will not occupy sites within 100 feet of any dumpster.
- 54) Vending operations will not obstruct public access to recreation sites.

Location Specific

- 55) Vending is restricted to the areas identified and approved on a Vendor Update/Change Form with an original date stamp, (e.g., Gecko Road Vendor Pad, Glamis Flats, Buttercup, Dune Buggy Flats Vendor Areas, Roving {moving} in the Imperial Sand Dunes Recreation Area, Roving {moving} in the Pilot Knob, Hot Springs, & Tamarisk Long Term Visitor Areas, Plaster City Open Area, & Superstition Mountain Open Area).
- 56) GECKO ROAD: Commercial vending along Gecko Road is prohibited except from authorized roving (moving) vendors and at the Gecko Road Vendor Pad. The rule applies to Gecko Road's 500' centerline width. **Supp. Rule, Federal Register, 07/28/1992, Vol. 57, No. 145, pp. 33364-5**
- 57) GECKO & ROADRUNNER CAMPGROUNDS, OSBORN OVERLOOK: Stationary vending operations will not occupy campsites at Osborne Overlook, Gecko or Roadrunner Campgrounds, and the parking/camping pads along Gecko Road.
- 58) GECKO ROAD VENDOR PAD: Vendors using the Gecko Road Vendor Pad must stay within their designated vendor site(s). Only vendors assigned to a site and their employees may camp on the assigned site. All vehicles used for camping must be listed on the permittees.
- 59) GECKO ROAD VENDOR PAD: Vendors can reserve only one site at the Gecko Road Vendor Pad.
- 60) GLAMIS FLATS VENDOR AREA: Camping and parking is prohibited within 30 feet of Highway 78 between the intersections of the Coachella Canal and the Glamis Flats Off-Ramp. **Supp. Rule, Federal Register, 01/14/1998, Vol. 63, No. 9, pp. 2261-2**
- 61) BUTTERCUP VENDOR AREA: Vending operations are restricted to the areas south of Grays Well Road. Use of the Caltrans Right-of-Way for Interstate 8 is not authorized.
- 62) BUTTERCUP VENDOR AREA: Vendors at Buttercup must be at least 25' beyond the edge of all paved road.

Food & Sanitation

- 63) Stationary and mobile food vending units with air conditioning, electrical wiring & features, plumbing etc. must have posted the certificate issued by the California State Division of Standards.
- 64) The permittee shall maintain vehicles and service equipment to standards of repair, orderliness, neatness, sanitation, and safety to meet all Imperial County, State and Federal laws, regulations and ordinances applicable to the area of operations.

- 65) Vendors selling pre-packaged foods must sell food items that are **properly labeled** with a company name, where manufactured, ingredients. (Pre-packaged foods must be sealed on all sides.

Roving (moving) Vending

- 66) Roving vending operations must be moving at all times except when servicing customers. Vending may not occur during break time.
- 67) All roving (moving) vending must be conducted in a safe manner and must be 10' off the edge off all asphalt roadways, i.e., Grays Well Road.

Products/Services

- 68) Only items/categories/services previously approved in writing by the authorized officer may be sold.
- 69) All welding activities will be appropriately screened to protect the public and/or property from injuries and damages resulting from the arc flash.
- 70) The sale of commercially packaged and sealed containers of fuel for camping equipment such as stoves and lanterns is authorized for stationary vending operations if included on the list of items to be sold. The authorized officer may restrict the size of containers sold. The storage and transport of the fuel must comply with all Federal, State, and Imperial County and subject to inspection by the Imperial County Fire Marshall.
- 71) The sale of fuel for motor vehicles is still prohibited.
- 72) The sale or display of alcohol, wood pallets, tobacco, and fireworks is prohibited.
- 73) The sale or display of lewd or pornographic material, drugs or drug paraphernalia is prohibited.
- 74) Examples of all graphics and wording to be used on clothing and other items sold must be submitted and approved by the authorized officer in advance of sales.
- 75) Vendors who sell items at their vending sites without prior approval on the appropriate form or sell items in prohibited packaging will be cited and/or may have their permit terminated.